UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS BROWNSVILLE DIVISION

CESAR PEREZ	§	
Plaintiff,	§	
	§	
	§	
VS.	§	
	§	CIVIL ACTION NO. 1:16-cv-00186
	§	
	§	
GEOVERA SPECIALTY	§	
INSURANCE COMPANY	§	
Defendant.	§	

PLAINTIFF'S MOTION TO REMAND

A. Introduction

- Plaintiff is Cesar Perez; Defendant is Geo Vera Specialty Insurance Group ("Geo Vera").
- 2. On May 31, 2016 Plaintiff sued Defendant for mishandling of his claim arising out of hail/wind damage to his home, violations under the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA"), violations of the Texas Insurance Code, including violations of the Prompt Payment of Claims Act and Unfair Insurance Practice, and for Breach of Contract in the 103rd District Court of Hidalgo County.
- Defendant Geo Vera was served with citation and notice of the suit on or about June 24, 2016.
- 4. Defendant filed its Notice of Removal on July 25, 2016.

B. Argument

- The court may remand a case on the basis of any defect identified in a motion for remand filed within 30 days after the filing of the Notice of Removal under 28 U.S.C. §1446(a). 28 U.S.C. §1447(c).
- The court should remand this case to state court because the amount in controversy is less than \$75,000.0, excluding interest, costs, and attorney fees. 28 U.S.C. §1332(a); see Darden v. Ford Consumer Fin. Co., F.3d. 753, 755 (11th Cir. 2000).

C. Conclusion

- 7. Plaintiffs' lawsuit against Defendants was filed as a result of Defendant's mishandling of Plaintiff's hail/wind property damage claim and DTPA violations. This Court should remand this case to state court because the amount in controversy does not exceed \$75,000.00.
- 8. For the reasons stated above, Plaintiff ask this Honorable Court to grant Plaintiff's Motion to Remand, remand this suit to the state court it was originally filed, and award Plaintiff his court costs, expenses, and attorney's fees.

Signature on following page.

Respectfully submitted,

William J. McCarthy
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William J. McCarthy State Bar No. 13372500 Federal Id No. 2444

ATTORNEY-IN-CHARGE FOR PLAINTIFF CESAR PEREZ

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been sent via FACSIMILE SERVICE and/or ELECTRONIC MAIL to counsel listed below on August 24, 2016.

Via Facsimile: (214) 871-8209

Via email: rthompson@thompsoncoe.com

Rhonda J. Thompson

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ATTORNEY FOR DEFENDANT GEOVERA SPECILTY INSURANCECOMPANY

State Bar No. 1337250

Federal Id No. 2444

ATTORNEY-IN-CHARGE

FOR PLAINTIFF CESAR PEREZ

VERIFICATION

State of Texas §
County of HIDALGO §

Before me, the undersigned authority, on this day personally appeared <u>William J.</u>

<u>McCarthy</u> who being by me duly sworn on his oath deposed and said that he has read the above and foregoing Motion for Continuance and that every statement contained herein is made upon information and belief or is within his personal knowledge and is true and correct.

SUBSCRIBED and SWORN TO before me this del'day of HU (USt , 2016

Notary Public in and for the State of Texas My Commission Expires: 3/3/2()

Notary's Printed Name: